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In the

Supreme Court of the United States

.....TERM, 1947

No. 1462

CONSUMERS HOME EQUIPMENT COMPANY and AVERY B. CHERETON,
Petitioners,
vs.
THE UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT AND BRIEF IN SUPPORT THEREOF

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INDEX

SUBJECT INDEX

	Page
Petition for writ of certiorari	1
Statement of the case	2
Statement of basis of jurisdiction	5
Questions presented	6
Reasons for allowance of the writ	7
Prayer for writ	8
Brief in support of petition	9
Opinions of the courts below	9
Jurisdiction	9
Statement of the case	9
Specifications of error in summary of argument	10
Argument	11
Conclusion	16

TABLE OF CASES CITED

Howat v. Kansas, 258 U. S. 181	4, 6
Re Michael, 326 U. S. 224, 66 S. Ct. 78	16
United States v. United Mine Workers, 91 L. Ed. 595, 67 S. Ct. 677	13

STATUTES CITED

Judicial Code, Sec. 240, as amended by 28 U. S. C. Sec. 347(a)	9
Secs. 2 and 5B Trading With the Enemy Act, as amended	11, 12, 17-23
U. S. C. 28, 347(a)	5

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Petitioners,
vs.
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PETITION FOR WRIT OF CERTIORARI

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioners, Consumers Home Equipment Company and Avery B. Chereton, pray for the issuance of a writ of certiorari to review the decisions of the United States Circuit Court of Appeals for the Sixth Circuit in affirming, on April 7, 1947, the judgment of the United States District Court for the Eastern District of Michigan, and in denying, on May 12, 1947, petitioners' request for rehearing.

STATEMENT OF THE CASE

Petitioners were convicted in the United States District Court for the Eastern District of Michigan upon a petition for rule to show cause why they should not be punished for criminal contempt (R. 196). The charges of contempt were based upon an injunction which was issued out of said Court July 19, 1945 (R. 1), enjoining petitioners herein, and their agents, servants, representatives, employees and persons in active concert and participation with them and any and all companies and persons under their control respectively from:

1. Making installment sales subject to the requirements of Regulation "W" of the Board of Governors of the Federal Reserve System without obtaining the cash down payment required by Section 4(a) of said Regulation;

2. Making installment sales subject to the requirements of Regulation "W" of the Board of Governors of the Federal Reserve System without furnishing the obligors the statement of transaction required by Section 4(d) of said Regulation;

3. Making installment sales subject to the requirements of Regulation "W" of the Board of Governors of the Federal Reserve System without maintaining and preserving for the life of the obligation to which they relate, such books of account, records and other papers as are relevant to establishing whether or not an evidence of credit within the scope of said Regulation was in conformity with the requirements thereof as required by Section 12(h) of said Regulation (R. 2).

Respondents answered the contempt charges and alleged that they had not violated either the injunction or Regu-

lation "W," and that they had no intent to violate either of them (R. 6, 8).

Respondents further set up an affirmative defense alleging that their method of doing business, with respect to installment sales, had been specifically approved by the Board of Governors of the Federal Reserve Bank in accordance with the provisions of said Regulation "W" as interpreted by said Federal Reserve Bank (R. 9).

Respondents further alleged that Regulation "W" is void because of an unconstitutional delegation of legislative power in conflict with Article 1, Section 1 of the Constitution of the United States, and further, that it is unconstitutional and void because of being contrary to the provisions of the Fifth Amendment to the Constitution of the United States in that the defendants are deprived of their property without due process of law (R. 9-10).

Respondents further claimed affirmative defenses in that the transactions complained of were within the exceptions provided in Regulation W in the event that said Regulation W should be found by the Court to be valid (R. 8, 9).

Trial was begun in the District Court on May 27, 1946, before the Honorable Ernest A. O'Brien, District Judge, without a jury. Testimony was offered by both petitioner and respondents, and on May 31, 1946, the Court found and adjudged both of the respondents guilty of criminal contempt of Court (R. 196).

On June 14, 1946, the Court filed its Opinion in which it stated, among other things, that the Court does not pass directly upon the validity or constitutionality of Regulation "W." The Court said further, that Regulation "W" is presumed to be valid and that that is all that is necessary in this proceeding (R. 198).

Defendant, Consumers Home Equipment Company, was sentenced to pay a fine in the amount of $2,500.00 (R. 199). Defendant Avery B. Chereton was sentenced to imprisonment for one year (R. 200).

An appeal was taken (R. 201) in which the Appellants raised questions (R. 202) that the Trial Court erred in: Finding and adjudging Appellants guilty of criminal contempt and imposing sentences thereon; making findings and judgment contrary to the great weight of the evidence; making findings and judgment contrary to the law applicable; basing its findings upon erroneous interpretations of Regulation "W" (R. 202); excluding evidence tendered by respondents pursuant to Regulation "W" to show that the transactions in question came within the exceptions provided in said Regulation "W"; ruling contrary to law that certain salesmen were agents of defendants; finding contrary to the evidence that there was contemptuous action on the part of A. B. Chereton personally; and in failing to go into the question raised by Respondents and failing to find that Regulation "W" is unconstitutional and void and denying to defendants on trial due process of law (R. 203).

Appeal was heard on March 31, 1947 in the United States Circuit Court of Appeals for the Sixth Circuit (R. 215). Appellants urged all of the errors claimed in their grounds of appeal in their briefs and in the oral argument. Stress was laid upon the claim by Appellants that there is no statutory authority to support Regulation "W" (R. 216). Appellee based its position on appeal upon the authority of *Howat v. Kansas,* 256 U. S. 181 (R. 216), which Appellee contends forecloses inquiry into the validity of Regulation "W." The Appellate Court sustained Appellee's position and interpretation of *Howat v. Kansas, supra,* and affirmed the judgments below upon the ground

that the defendants are lawfully convicted of contempt without regard to the validity of Regulation "W" or the existence of Statutory authority to support said Regulation "W" (R. 216). On April 7, 1947 the Appellate Court filed its opinion (R. 216). No notice is taken in the opinion of the other points in Appellants' grounds of appeal.

Appellants filed Petition for Rehearing (R. 217) which was denied by the Court on May 12, 1947 (R. 223).

STATEMENT OF BASIS OF JURISDICTION

Petitioners invoke the jurisdiction of this court because misapplication of decisions of the Supreme Court of the United States, denial of due process to petitioners in the protection of their liberty and property in the courts below, and justice to petitioners require it. 28 U. S. C. 347(a).

QUESTIONS PRESENTED

1. Must the judgments of conviction and sentences for contempt in the court below be upheld on appeal upon the authority of *Howat v. Kansas,* 258 U. S. 181, 189, 190, without determining whether the regulation they were enjoined from violating is unsupported by statutory authority or is unconstitutional? (R. 216.)

2. Where appellants claim, as they do here, as one ground of their appeal, that the provisions of Regulation W, which they are charged to have violated, as the only allegation of contempt, are unconstitutional and void because they are contrary to Article 1 Section 1 and the 5th amendment of the Constitution of the United States, are appellants entitled to a review on appeal to determine the validity of such regulation and whether or not appellants have been denied due process of law? (R. 203, Ground of Appeal No. 9.)

3. Where the injunction, as it does here, merely substitutes the language of administrative Regulation W, which is based upon the claimed authority of a statute containing criminal penalties for violation of Regulations thereunder, are appellants lawfully convicted of criminal contempt of court solely upon alleged past acts of violation of said Regulations as substituted in said injunction? (R. 202, 203, Grounds of Appeal 1 and 9.)

4. Are appellants entitled to a review and decisions upon their claims of prejudicial errors in the trial? (R. 202, 203, Grounds of Appeal 1 to 8 inclusive.)

REASONS FOR THE ALLOWANCE OF THE WRIT

1. Petitioners stand convicted and sentenced for contempt under color of authority of an administrative regulation of the Government of the United States which is alleged to be void.

2. The question involved is one of general importance relating to the validity and construction of a statute of the United States.

3. The decision affirming the judgments of conviction and sentence involves the misinterpretation or misapplication of a decision of the Supreme Court of the United States.

4. Petitioners are deprived of their liberty and property without due process of law guaranteed to them by the Constitution of the United States.

PRAYER

Wherefore, petitioners, Consumers Home Equipment Company and Avery B. Chereton pray that a writ of certiorari issue under the seal of this Court directed to the United States Circuit Court of Appeals for the Sixth Circuit, commanding said Court to certify and send to this Court, a full and complete transcript of the record and of the proceedings of said Court had in this cause, numbered and entitled on its docket, No. 10286, Consumers Home Equipment Company and Avery B. Chereton, Appellants v. United States of America, Appellee, to the end that this cause may be reviewed and determined by this Court and that the judgment of the United States Circuit Court of Appeals for the Sixth Circuit be reversed and for such further relief as this Court may deem proper.

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BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

I.

SUBJECT INDEX AND TABLE OF CASES, TEXTBOOKS AND STATUTES CITED

Appears on first page

II.

OPINIONS OF THE COURTS BELOW

The opinion of the District Court in the United States, for the Eastern District of Michigan (R. 197), filed June 14, 1946 has not been reported.

The opinion of the United States Circuit Court of Appeals for the Sixth Circuit (R. 216), filed April 7, 1947, and the Order denying Petition for Rehearing (R. 223), filed May 12, 1947, have not been reported.

III.

JURISDICTION

The jurisdiction of the court is invoked under Section 240 of the Judicial Code, as amended by the Act of February 13, 1925, 28 U. S. C. Section 347(a).

IV.

STATEMENT OF THE CASE

A summary statement of the case has already been made in a Petition for Writ of Certiorari, under heading 1, which is hereby adopted and made a part of this brief.

V.

SPECIFICATIONS OF ERROR IN SUMMARY OF ARGUMENT

The defendant's raised the question at their first opportunity in the Trial Court, that the Regulation W, upon which the charges against them are based, is unconstitutional and void. The Trial Court did not go into the question of the validity of said regulation W, but presumed it to be valid and held that such presumption is all that is necessary in this proceeding. The injunction issued against the defendants, upon which the contempt charges are based, has no meaning without reference to the provisions of Regulation W. Therefore, Appellants claim they are entitled to a judicial decision as to the validity of Regulation W. Appellants contend that the Trial Court made errors of law by which they were prejudiced in the trial and that they were denied due process of law guaranteed to them by Article 1, Section 1, and the Fifth Amendment of the Constitution of the United States.

The Appellate Court did not go into the validity of Regulation W because it held that such inquiry is foreclosed in that Court by the authority of *Howat v. Kansas, supra.* The effect of the proceedings in the Trial Court and in the Appellate Court, is to deprive the Appellants of their defense in the Trial Court and of a review on the merits of their several claims of error on appeal.

Errors assigned in grounds of appeal 1 to 9 inclusive (R. 202-203), and paragraphs 5-11 inclusive of Petition for Rehearing (R. 218-220) are intended to be urged.

VI.

ARGUMENT

Appellants urged as their main point on appeal, that there is no statutory authority to support Regulation W. Throughout the trial and in the proceedings leading up to the trial, the authority which was cited o support the administrative actions taken against the Consumers Home Equipment Company is "Section 5(b) of the Act of October 6, 1917, as amended, and Executive Order No. 8843, dated August 9, 1941." Appellants contend that reference to these authorities fails to disclose any constitutional or statutory authority for the administrative actions taken under color of authority of Regulation W. The injunction which was issued in the District Court, enjoining upon the Appellants certain negative and affirmative acts, is merely the adoption of the language of three provisions of Regulation W (R. 2). The injunction therefore depends entirely upon the validity of Regulation W as law. The terms of the injunction have no meaning whatever except as such meaning is supplied by Regulation W. If there is no validity in Regulation W then, of course, there must be no validity in the injunction which depends upon the requirements of Regulation W.

There is nothing in the injunction here which invokes the Judicial Powers of a Court of the United States other than the authority which may be conferred by Regulation W. According to all apparent intents and purposes, the injunctive procedure was adopted to afford an opportunity to take future contempt action against these Appellants instead of relying directly on the enforcement provisions of Regulation W. The Trading With the Enemy Act, which is alleged to be the Statutory authority for Regu-

lation W, also has penalty provisions for the violation of that Act or any Regulations pursuant thereto.[1]

Appellants contend at this time that the Trading With The Enemy Act gives no authority to the Executive Department of the government to exercise the control provided for by the terms of Regulation W.[2]

Counsel for appellee have not directly answered appellants' claim that there is no statutory or constitutional authority for Regulation W or for the conviction of appellants of contempt, but cite *Howat v. Kansas, supra,* as controlling authority, finally determinative of the questions raised in this appeal. Under appellee's interpretation of that case, the Appellate court cannot reach the question of the validity of Regulation W or of the injunction which the Appellants are charged with violating. Appellants contend this is an erroneous application of the Howat case. The Appellate Court sustained the convictions solely on the authority of *Howat v. Kansas, supra.*

Several distinguishing factors are apparent. In the Howat case, the constitutionality of a state statute was raised. The validity of that statute was not necessary to be determined in that proceeding because, the acts enjoined upon the defendants were under the general judicial powers of the court entirely aside from the question of validity or non-validity of the challenged provisions of the state statute. One act charged to be contemptuous was refusal to appear and testify under subpoena. Another was violation of an injunction against conspiracy to strike, under the general equity powers of the court. There was no federal question involved. The acts of the defendants therein were admittedly done in direct violation of the orders of the court and they affected

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[1] See Appendix A.

[2] See Appendix B and C.

the judicial process. The defendants took into their own hands the privilege of determining for themselves what the law was. None of these elements is present in the case at bar.

The Appellate Court mentions *United States v. United Mine Workers,* 91 L. Ed. 595, 67 S. Ct. 677, as further support for its opinion (R. 216). It is respectfully submitted that this court, in the case last cited, does not sanction the application of the rule of the Howat case to a set of facts comparable to the instant case. There is in the instant case none of the contumacy which is condemned in varying phraseology in the line of contempt cases cited in *U. S. v. United Mine Workers, supra.* Here there was no temporary restraining order which was flouted. There was no attack upon the authority of the court to make an order to preserve existing conditions. There was no "defiance of public authority" but quite the opposite. There was no "wilful refusal of obedience." There was no opportunity given to "purge" themselves of anything which they knew the court considered to be required by its order. They were punished for past acts. There was no "imminent interference with orderly judicial proceedings." On the contrary, the defendants below asked for the decision of the court upon the question as to which they doubted the administrative agency's authority.

That which we respectfully submit distinguishes the doctrine of the Howat case, and sets it aside as inapplicable to the case at bar, is succinctly phrased in several parts of the opinion of this Court in *United States v. United Mine Workers, supra,* for instance, by Mr. Chief Justice Vinson, for the court, at page 614, as follows:

> "In the case before us, the District Court had the power to preserve existing conditions while it was determining its own authority to grant injunctive

> relief. The defendants, in making their private determination of the law, acted at their peril. Their disobedience is punishable as criminal contempt."

Mr. Justice Frankfurter, at page 622, of the opinion in *United States v. United Mine Workers, supra,* states as follows:

> "To say that the authority of the court may be flouted during the time necessary to decide is to reject the requirements of judicial process."

The appellants here asked for the court to examine the authority for its injunction and professed willingness and intention to comply. They claim to have complied with all requirements of the authorities at all times (R. 6, 110, 115, 120).

The foregoing facts of the instant case are quite different from the situation described at page 625 of the court's opinion, *supra:*

> "The restraining order sought to preserve conditions until the cause could be determined, and obedience by the defendants would have secured this result. They had full opportunity to comply with the order of the District Court, but they deliberately refused obedience, and determined for themselves the validity of the order."

Again, at page 619, this court said:

> "Sentences for criminal contempt are punitive in their nature and are imposed for the purpose of vindicating the authority of the court."

In the case at bar the court by injunction ordered the respondent company and its president to obey the requirements of Regulation W by inserting the words of certain provisions of Regulation W in the injunction. Respond-

ents claim that they have obeyed the requirements of Regulation W and the injunction at all times. There is nothing in the record to show that respondents violated any order of the court. In order to find that there was disobedience to the injunction, the court of necessity had to find that respondents violated Regulation W itself. As a part of their defense to the criminal charges, respondents asked the court to determine the validity and constitutionality of Regulation W. There was nothing in the case in the nature of an order to preserve existing conditions pending a decision by the court upon its own jurisdiction. If the court finds Regulation W to be valid and constitutional respondents would abide by the law as interpreted and defined by the court. If it should find their objections to be well taken, they would be exonerated of criminal charges and relieved of further restraint and control under color of authority of Regulation W. It is respectfully submitted that there is here nothing of the nature of disrespect toward the court's authority such as gave rise to the rule in the Howat case and the Lewis case, and other cases cited herein. Indeed, from the appellants' point of view they promptly pleaded in an orderly way for the intervention of the authority of the court to protect their liberty and property rights.

Petitioners respectfully urge upon the court's attention that their convictions are not consistent with the rules of law governing convictions of criminal contempt. They are punished for contempt for conduct which is identical with an offense defined and made punishable by statute. If Regulation W is a valid regulation authorized by the terms of Section 5(b) of the Trading With The Enemy Act, then the penalty provisions of that act are available to punish any wilful violation of the regulation. (See Appendix A.)

It is further respectfully submitted that petitioners are convicted for conduct which lacks that element of "obstruc-

tion to the administration of justice" and their sentences are not based upon the principle of exercise of the "least possible power adequate to the end proposed," which are necessary to justify punishment for contempt.

It is urged therefore that petitioners are not lawfully convicted and that their judgments of conviction and sentence should be set aside. *Re Michael,* 326 U. S. 224, 90 L. Ed. 30, 66 S. Ct. 78.

Respectfully submitted,

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APPENDIX A

Trading with the Enemy Act

Sec. 16. 40 Stat. 411, 425:

> "That whoever shall wilfully violate any of the provisions of this act, or of any license, rule, or regulation issued thereunder, and whoever shall wilfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this act shall, upon conviction, be fined not more than $10,000 or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States."

APPENDIX B

Section 5 b, of the Trading with the Enemy Act, 40 Stat. 415, provides:

> "That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidence of indebtedness or of the ownership of property between the United States and any foreign Country, whether enemy, ally of enemy, or other-

wise, or between residents of one or more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed."

Section 2, of the Trading with the Enemy Act, provides:

"The words 'bank or banks,' as used herein, shall be deemed to mean and include national banks, state banks, trust companies, or other banks or banking associations doing business under the laws of the United States, or of any State of the United States."

Pertinent provisions of the First War Powers Act of 1941, 55 Stat. 839, amending Section 5 b of the Trading with the Enemy Act, as follows:

"Section 301. The first sentence of subdivision (b) of Section 5 of the Trading With The Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

'(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or futherance of these purposes; and the President, shall, in the manner hereinabove provided, require any person to keep in full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any nation thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure of any books of accounts, records, contracts, letters, memoranda, or other papers, in the

custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.' "

APPENDIX C

Report of the House Committee on Judiciary No. 1507, dated December 15, 1941, explains the purposes of the amendment to the Trading with The Enemy Act, as follows:

"This bill confers upon the President authority which is urgently needed in order to put the Government of the United States on an immediate war footing. It is based on the experience of World War I and intended to give the President of the United States and the Commander-in-Chief of the Army and Navy certain powers similar to those which President Wilson had during that war.

"Title III of the bill deals with the Trading With The Enemy Act, which originally became law on October 6, 1917, during the last war. Some sections of that Act are still in effect, some sections have terminated, and there is doubt as to the effectiveness of other sections.

"Title III contains three provisions:

"(1) Section 5 (b) of the Trading With The Enemy Act has been continued down to the present time. The existing system of foreign property control (commonly known as 'freezing control') is based on that subdivision as last amended on May 7, 1940. That subdivision of Section 5 as it is now in effect, however, does not give the broad power to take, administer, control, use, liquidate, etc., such foreign owned property that would be given by Section 301 of the bill.

"At present the Government exercises supervision over transactions in foreign property, either by prohibiting such transactions or by permitting them on condition and under license. It is, therefore, a system which can prevent transactions in foreign property prejudicial to the best interests of the United States, but it is not a system which can affirmatively compel the use and application of foreign property in those interests.

"Section 301 remedies that situation by adding to the existing freezing control, in substance, the powers contained in the Trading With The Enemy Act with respect to alien property, extending those powers and adding a flexibility of control which experience under the original Act and the recent experience under freezing control have demonstrated to be advisable. The provisions of Section 30 would permit the establishment of a complete system of alien property treatment. It vests flexible powers in the President, operating through such agency or agencies as he might choose, to deal with the problems that surround alien property or its ownership or control in the manner deemed most effective in each particular case (emphasis ours). In this respect the bill avoids the rigidity and inflexibility which characterized the Alien Property Custodian law enacted during the last war. The necessity for flexibility in legislation on this subject is accentuated by the vastness of the alien property problem confronting the Government today. At the peak of his activity the Alien Property Custodian of the last war administered property valued at something over $5,000,000,000.00. Today there is over $7,000,000,000.00 worth of property already subject to the existing control.

"This provision of the bill to a considerable extent follows the pattern of existing law and is a logical extension of the present foreign property control system, which has been operating very satis-

factorily for almost two years. The extension could be put into immediate operation with a minimum amount of trouble or dislocation of legitimate activities.

"(2) Section 302 of Title III approves and ratifies action taken prior to the enactment of this legislation, under the Trading With The Enemy Act, as amended, which would have been authorized if the provisions of this proposed legislation had been in effect at the time of the taking of the action in question. This ratification provision is similar in principle to those heretofore adopted by Congress, applicable to action taken under Section 5 (b) of the Trading With The Enemy Act (see Section 2 of the joint resolution of May 7, 1940, Public Resolution No. 69, Seventy-sixth Congress; and Section 1 of the Act of March 9, 1933, 48 Stat. 1).

"(3) Section 303 is identical with the provisions of Section 3 (d) of the Trading With The Enemy Act passed in 1917, except that it also contains provisions identical with Section 16, the penalty provision of such Act.

"Section 3(d) of the Trading With The Enemy Act authorized President Wilson, whenever he deemed that the public safety demanded it during the last world war, to cause to be censored, under such rules and regulations as he might from time to time establish, communications by mail, cable, radio, or any other means of transmission between the United States and any foreign country. Section 303 of the present bill deals only with censorship of international communications and not with domestic censorship.

"The authority given by this provision is the minimum necessary for an effective control over foreign oommunications. It seems likely that the President as Commander-in-Chief of the Army and Navy already has, during time of war, power to censor international communications. However, in

a matter of such importance there should be no question about the extent of such power. It is essentially important that the President's power extend not only to the direct means of communication but also to control over communications which may be carried by means of vessels, automobiles, or other means of transportation. Section 303 will make it absolutely clear that the President may censor all forms of foreign communication direct or indirect. It will further permit him, as a matter of administration, to set up an organization and definite rules under which the control is to be carried out." U. S. Code, Congressional Service, Congressional Comment, Title IV, pp. 1030-1032.